

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 86-406

In the Matter of

Amendment of Sections 73.1125
and 73.1130 of the Commission's
Rules, the Main Studio and
Program Origination Rules for
Radio and Television Broadcast
Stations

RM-5480

REPORT AND ORDER
(Proceeding Terminated)

Adopted: April 16, 1987;

Released: June 1, 1987

By the Commission:

INTRODUCTION

1. By this action, the Commission is amending the main studio rules to tailor their requirements to broadcast station operations in today's marketplace and regulatory environment.¹

2. The Commission's current main studio location rule mandates that every broadcast station maintain its main studio in its community of license. The rule contains exceptions for AM booster stations, AM stations whose main studios are situated outside their communities of license at the station transmitter site and an FM station commonly owned with such AM station and licensed to the same principal community, whose main studio is collocated at the AM station's transmitter site. Pursuant to Section 73.1125(a)(3), a waiver of the rule is available "when good cause exists for locating the main studio outside the principal community to be served and that to do so would be consistent with operation of the station in the public interest." The station program origination rule mandates that every broadcast station originate more than 50 percent of its non-network programs from its main studio or other points within its community of license.

3. We adopted and have enforced the main studio rules to assure that stations fulfill their local service obligations. However, dramatic changes in technology and the marketplace have taken place since we adopted the rules and the regulatory landscape has changed as we have adapted our rules and policies to these developments. The record in this proceeding and careful review of our current policies confirm that amendment is appropriate at this time to conform our rules to present modes of station operation.

4. The rules adopted herein will permit a broadcast station to locate its main studio outside its principal community at any point within the station's principal community contour. In addition, a broadcast station will no longer be required to originate a majority of its non-network programming from its main studio or other

points situated within the station's principal community. We will, however, require that every station maintain its public inspection file within its community of license.

BACKGROUND

5. Pursuant to the mandate of Section 307(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 307(b), to "make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide for a fair, efficient, and equitable distribution of radio service to each of the same," the Commission established a scheme for distributing radio service in which every broadcast station is assigned to a community of license with a primary obligation to serve that community. We construed radio service to include transmission as well as reception service, defining transmission service as the "opportunity which a [broadcast] station provides for the development and expression of local interests, ideas, and talents and for the production of [broadcast] programs of special interest to a particular community." *Promulgation of Rules and Regulations Concerning the Origination Point of Programs*, 43 FCC 570, 571 (1950). Station location -- location of the transmitter and the studio -- has been an integral component of the allotment scheme.²

6. We expressed the significance of maintaining a studio accessible to the community of license at the time we adopted the non-network program origination requirements for AM and FM broadcast stations. We stated that "a station cannot serve as a medium for local self expression unless it provides a reasonably accessible studio for the origination of local programs." *Id.* The correlation between the location of the studio and the furnishing of local service also was found in the television context to support the main studio location rule for television broadcast stations. *Television Main Studio Location*, 43 FCC 888 (1952); see also *Rules Governing Standard and High - Frequency Broadcast Stations*, 11 Fed. Reg. 33 (1946). Accessibility, we noted, "may well determine in large part the extent to which the station (1) can participate and be an integral part of community activities and (2) can enable members of the public to participate in live programs and present complaints or suggestions to the station." 43 FCC at 890.

7. The radio station origination requirements became applicable to television by rule in 1979, when the main studio rules for AM, FM and television were consolidated into present Sections 73.1125 and 73.1130.³ Previously, television broadcast stations were bound by origination requirements developed through cases interpreting the main studio location rule.⁴ With respect to the requirements for radio we have stated:

Although the rule does not specify the type or category of programs which should originate from a studio within the community of license and relies on a fixed minimal percentage standard, the purpose of the rule is clear; it is to assure that licensees meet their local service obligations by providing a reasonably accessible studio within the community of license for the origination of a substantial portion of those programs dealing with local needs and interests.

Arizona Communications Corp., 27 FCC 2d 283, 284 (1971).

8. There have been no substantial changes in the rules since their adoption. We have, however, refined the origination requirements through the waiver process to afford licensees a certain degree of flexibility in their operations. In *Arizona Communications Corp.*, 25 FCC 2d 837 (1970), *recon. denied*, 27 FCC 2d 283 (1971), we determined that we might better achieve our goals by adapting the requirements to the nature of the programming involved. In this case we permitted the radio licensee to exclude recorded music programs from the programming computation under Section 73.1130. The licensee still would be required to originate a majority of its non-recorded music programs from its main studio, and would be subject to several additional conditions, including the requirements that its main studio contain adequate and appropriate facilities for the presentation of all programs originating from there and that the program line between the studio and transmitter site meet applicable audio quality standards.

9. The rationale of *Arizona* recently was extended to television in *Pappas Telecasting of the Carolinas (WHNS (TV))*, 60 RR 2d 1394 (1986), *appeal pending sub nom. Mark III Broadcasting Company, Inc v. FCC*, No. 86-1481 (D.C. Cir., docketed August 27, 1986). In *Pappas*, the Commission granted a waiver of the origination rule to permit the television licensee to exclude its general entertainment programming, consisting primarily of films and syndicated programs, from its programming computation under the rule.

10. In its April 3, 1986 *Report on the Status of the AM Broadcast Rules ("AM Status Report")*, the Mass Media Bureau noted that the main studio location requirement merited review in light of current production methods and the actual means of contact between stations and their communities. The staff also recommended the elimination of the origination rule applicable to AM stations.

11. Following release of the report, the Arizona Justice Committee ("AJC")⁵ filed a petition for rule making asking the Commission to review the rules. In its June 11, 1986 petition, the AJC proposed replacing the main studio rules applicable to radio stations with the requirement that each radio station "shall maintain an office that is reasonably accessible to the residents of its community of license and shall maintain a main studio within the station's service area." In response to the AJC petition, the Commission adopted the *Notice of Proposed Rule Making ("Notice")*⁶ in this proceeding to consider amendment of the main studio rules.

12. In the *Notice*, the Commission proposed modification of the main studio location rule to require that an AM, FM, or TV broadcast station's main studio be located within its principal community ("city grade") contour or within its service area or, alternatively, elimination of the rule, and proposed elimination of the station origination rule.⁷ Among the factors cited by the Commission warranting reevaluation of the rules were the technical advances in the production and transmission of programming which have taken place during the last 35 years, the uncertainty as to whether accessibility of the main studio increases interaction between residents and the station and the substantial costs which may be imposed by the current rules.

13. Comment was requested on the Commission's proposals and the specific questions posed by the Commission as to whether television and radio should be treated differently, how the origination rule is satisfied,

how the station interacts with the community residents and what costs are imposed by the rules. In addition, the Commission requested commenters to focus on whether the current rules are still required to implement Section 307(b) of the Communications Act.

COMMENTS

14. Over fifty formal or informal comments were filed in this proceeding.⁸ Nearly all of the commenters supported our proposal to revise the main studio rules.

15. *Station Main Studio Location.* Of those favoring revision, the majority advocated amending the main studio location rule to relax the location standard. With few exceptions, the remainder advocated the elimination of the rule, although many of these commenters offered alternative proposals containing location standards and many would impose other "access" requirements. Very few commenters supported our current rule.

16. Of the commenters advocating the relaxation of the rule, the majority favored modifying the rule to require that stations place their main studios within their service areas. They also advocated imposing certain access requirements to complement the location requirement. Other proposals included adoption of our proposed city grade ("principal community contour") location standard; that relief be limited to commonly-owned stations licensed to different communities in the same market; and amendment of the rule to permit the location of the main studio anywhere within 35 miles of the community of license as long as service was not impaired and a toll-free telephone number was maintained.

17. Commenters noted that the rationale for the rule has been undermined by developments in communications technology. NAB stated that:

At one time it was logical to require a station to maintain its main studio in its community of license and to originate a majority of its programming from within the boundaries of that community. During this period most programming had to originate from the main studio since that was where the broadcast equipment was located. Technology has permitted the studio to be anywhere a broadcaster desires. Operating from a single studio and producing programs strictly from [that studio] are merely remnants of another era.

NAB also asserted that today's competitive marketplace compels broadcasters to seek alternative sources of programming. Competitive marketplace forces, a number of commenters argued, also ensure that stations will be accessible and responsive to their audiences. Further, the majority of commenters confirmed that community residents generally contact the station by letter or telephone, and rarely, if ever, visit the main studio. Commenters also noted that contact between residents and the station is often initiated by station management and staff, and that accessibility considerations have changed as transportation facilities have improved and metropolitan areas have expanded with modern highways and mass transit systems.

18. NAB, which submitted a study of the efficiencies of joint station operations, and a number of other commenters, asserted that eliminating the rule will permit cost-efficiencies to be realized by joint station operations.

Commenters also noted that the existing rule is too restrictive as it may preclude the relocation of main studios to lower cost areas, the collocation of studios and offices, and the placement of studios at transmitter sites. Commenters asserted that station expenses, as well as the administrative costs incurred in processing waiver requests, could be reduced by granting broadcasters greater flexibility in determining the location of their facilities.

19. Many commenters argued, in addition, that the relaxation or elimination of the rule is consistent with other Commission policies and that what is important is responsiveness of programming to the community. In this respect, several commenters argued that the Commission should consider the present concept of "community" in amending the rule. They noted that many stations serve regional areas and that both business and audience support are dependent upon service to the station's entire reception area. Therefore, they argued, the Commission should not restrict studio location on the basis of service to principal communities.

20. Only five commenters supported the retention of our present rule. In general, these commenters argued that the rule is required to ensure that stations serve their local communities; and that the Commission should retain the rule to stem the "movement" of stations to cities.

21. *Station Program Origination.* Our proposal to eliminate the origination rule received overwhelming approval from the commenters. In general, these commenters agreed with our initial assessment that the rule does not support its stated objectives.

22. The commenters supporting elimination concurred with our observation that technical advances in the production and transmission of programming have minimized the role of the main studio in the origination of programming. They confirmed that portable recording and transmission equipment is used extensively to originate programming from remote areas. NAB's view that "issue responsive programming is often best obtained from outside the confines of a broadcaster's community" is representative of the views of these commenters. Many commenters also noted that the rule is "content neutral" and therefore cannot serve to promote locally-oriented programming. Pappas Telecasting Incorporated, *et al.* ("Pappas") and others noted that the rule may result in a loss of some responsive programming from outside the community because the amount of programming which can originate from these sources, irrespective of the nature of the programming, is limited to 49% of the station's non-network programming. Further, many commenters identified inefficiencies imposed by the rule, including the required maintenance of unnecessary facilities.

23. The opposing commenters stressed the importance of local community service in advocating the retention of the rule. Dubois County Broadcasting, Inc. argued that both rules were required to ensure that suburban and rural stations serve their communities and not, nearby cities. Robert E. Martinez, Jr. argued that a Commission decision to retain the rule would reaffirm the importance of community service.

24. *Applicability to Television and Radio.* Several commenters noted that the analysis for amending the rules for the various broadcast services may be different and many commenters limited their discussion to only one type of service or to their particular circumstances. However, in general, the commenters did not object to applying our

proposed rules to all broadcast stations. Many commenters, including NAB and Group W, supported the applicability of their proposals to all stations.

25. *Section 307 (b).* The commenters generally agreed that servicing the needs and interests of the community continues to be an important component of the Commission's implementation of the mandate of Section 307(b). The commenters supporting relaxation or elimination of the rule, however, do not believe the Section is a bar to Commission action at this time, as there is no longer a nexus between the existing rules and service to the community sufficient to warrant their retention. AJC and other commenters did assert that the Commission's implementation of the Section did preclude the Commission from completely eliminating all main studio location and access requirements. In discussing this issue, the Maryland-District of Columbia-Delaware Broadcasters Association, Inc. and several other commenters noted that the term "community" is changing, altering the concept of "community service."

26. Only one commenter opposing the amendment of the rules directly addressed this issue. State College Communications Corp. argued that the mandate of Section 307(b) would be frustrated if our proposals were adopted because a nexus continues to exist between the rules and their stated objectives.

27. *Additional Issues.* Pappas and several other commenters raised the issue of whether the present public file requirement must be amended in conjunction with any modification of the main studio rules. Our rules now require that the file be maintained at the main studio or any accessible place in the community to which the station is licensed. NAB, NTIA and others asserted that the public file must remain accessible to the community if our rules are relaxed or eliminated to effectuate our programming-related policies.

28. WPRV-TV asserted that a station licensed to a community in Puerto Rico or the U.S. Virgin Islands must be required to locate its main studio on the island of its community of license, irrespective of whatever action the Commission takes in this proceeding. Finally, several commenters requested clarification of the applicability of the rules to non-commercial educational stations. Other commenters proposed the elimination of the rules for certain non-commercial educational stations or the tailoring of their requirements to the operations of these stations.

DISCUSSION

29. *Station Main Studio Location.* The main studio location and origination rules were adopted to assure that broadcast stations fulfill their local service obligations. We determined that a rule which required stations to maintain their main studios in their communities of license would perform this function in several interrelated ways. As the main studio played the key role in the origination of a broadcast station's programming, its location in the community would assure the use of local talent and ideas. At the time the location requirements for AM, FM and TV broadcast stations were adopted, locally produced programming was deemed an important element of a station's service obligations. *See Public Service Responsibility of Broadcast Licensees* (1946). A local main studio also would permit community residents to readily contact the station to voice suggestions or complaints. Further, the

location of a station's main studio in the community of license would ensure the station's integration in the activities of the community it is primarily licensed to serve. This interaction between the station and the community would foster responsive programming.

30. The role of the main studio, however, has evolved since the adoption of our location requirements over 30 years ago. Today, the main studio does not necessarily play the central role in the production of a station's programming and may not be the best location for the origination of responsive programming. Current broadcast technology and innovative production methods enable stations to present programming in numerous ways and from a diversity of locations. Competitive marketplace forces compel stations to utilize a diversity of programming sources and formats to meet the interests and needs of their communities. Mobile units and remote studios, connected to stations through microwave and satellite links, are used to offer programming that includes live feeds from distant points covering events of national or regional significance as well as immediate reporting of local city council meetings. Due to these changes, the role played by the main studio in the production of programming has diminished.

31. Moreover, we have adapted our rules and policies to changes in the marketplace. In revising our programming policies, we recognized that "the coverage of local issues does not necessarily have to come from locally produced programming."⁹ Thus, regulatory, as well as marketplace developments, have eroded the production role of the main studio. We therefore no longer believe that main studio facilities within the political boundaries of the community of license necessarily promote responsive programming.

32. The record in this proceeding also demonstrates that a studio in the community of license is no longer required to assure that a station is physically accessible to residents. Residents generally communicate with a station by telephone or mail, neither avenue dependent on locale. Travel time has been reduced in many areas due to the growth of modern highways and mass transit systems. A studio located outside a community may be as accessible to residents as a facility within the community.

33. In light of these changes, we believe that it is in the public interest to relax the rule to permit a station to locate its main studio outside its community of license at any point within its principal community contour.¹⁰ This action will extend additional flexibility to broadcast stations without affecting the station's ability to meet its local service obligations. All stations will now be permitted to obtain the efficiencies to be realized by collocating the station's studio at its transmitter site. Program line costs may be significantly reduced by eliminating the need for auxiliary microwave and common carrier connections between studios and transmitters. The amended rule may also permit stations to lower their operating expenses by relocating their studios to lower cost areas. Further, providing stations with additional flexibility to determine where to place their main studios will lead to a decrease in waiver requests, reducing administrative costs.¹¹

34. We recently noted the existence of the rule in eliminating the suburban community policy, the *Berwick* doctrine and the *de facto* reallocation policy. See *Report and Order* in BC Docket No. 82-320, 93 FCC 2d 436 (1983), *recon. denied*, 56 RR 2d 835 (1984), *aff'd sub nom. Beaufort County Broadcasting Company v. FCC*, 787 F.2d

645 (D.C. Cir. 1986). We stated that we will presume a licensee intends to serve the community designated in its application if an examination of the application indicates compliance with our licensing rules. We noted that compliance "will result in the requisite signal to the community of license, location of the main studio in that community and a programming proposal that will serve the needs of the community of license." 93 FCC 2d at 456. Our action here is not inconsistent with that decision. In this proceeding we have reevaluated the rule in light of the changes that have occurred in technology, the marketplace and our regulations since its adoption, and have determined that the present location standard is unduly restrictive and can be modified without affecting the station's ability to serve its community of license.

35. At this time, for several reasons, we reject our alternative proposals to eliminate the rule or to modify it to provide that a station's main studio be located within its service area. We similarly reject the other proposals advanced by commenters which would permit placement of the main studio outside the principal community contour.

36. First, we believe that it is appropriate to proceed prudently. The principal community contour standard will afford stations additional flexibility -- many stations will be able to relocate their main studios to any point within 20 miles of their transmitter -- but will ensure that the studio remains within the station's market and near its community of license. In contrast, a service area location standard would have permitted some stations to locate their main studios at a distance of over 100 miles from the community of license. We also believe that our amended rule will grant most stations the flexibility they require to obtain the benefits which are now precluded by the community of license location standard, and that stations will continue to locate their main studios in or near their communities of license. Exposure to daily community activities and other local media of communications helps stations identify community needs and interests, which is necessary to operate in today's competitive marketplace and to meet our community service requirements. In addition, the studio will continue to be accessible to community residents participating in those local programs that, at the broadcaster's option, are produced at the studio.

37. We recognize that the use of the principal community contour may afford some licensees greater flexibility than others.¹² We believe, however, that its use best balances our objectives. It ensures that the main studio is located in the primary reception area of the station, and will permit collocation of the main studio and the transmitter in all cases.

38. To assure meaningful public participation in our licensing process, a local public file and the ability of residents to communicate with the station must be maintained. Therefore, we will require that every station locate its public inspection file in the community of license.¹³ In addition, if community residents would incur toll charges in telephoning a station whose personnel are all located outside the community, the station must maintain a local or toll-free number.

39. *Station Program Origination.* We can no longer justify a requirement that stations originate a stated minimal percentage of their programming from their main studios or other points within their communities. We do not believe the original rationale of the rule, to facilitate

locally-oriented programming by indirectly promoting the use of local talent and ideas, is still valid. In addition, we now believe the rule imposes unnecessary costs and may actually preclude the presentation of responsive programming.

40. The origination requirements have never dictated the nature of the programming to be originated locally. The requirements had been adopted to work in conjunction with the main studio location rules and alone to assure locally-oriented programming on the premise that such programming could be expected if a significant amount of programming originated in studios located within the community. However, in light of current broadcast station operations, we can no longer presume that location alone is relevant to the provision of programming which is responsive to the interests and needs of the community.

41. As discussed above, the main studio no longer plays the central role in the production of a station's programming and programming originated from within the political boundaries of the community is not necessarily responsive to the needs and interests of the community. Today, remote production and transmission equipment permits responsive programming to originate from outside the main studio or community of license and marketplace forces dictate the provision of such programming from whatever its source.

42. In addition, our rule is inconsistent with our recent actions revising programming-related policies and rules. In deregulating radio and television, we eliminated our programming guidelines which had required specified amounts of non-entertainment programming.¹⁴ We granted licensees the discretion to address community issues with whatever types of programming they deemed appropriate to those issues. We also eliminated the AM-FM program duplication rule which had dictated that if either station of an AM-FM combination is licensed to a community of more than 25,000 population, the FM station could not devote more than 25% of the average program week to duplicated programming.¹⁵ As we have granted licensees the flexibility to determine the source and nature of their programming, it is only logical that we grant them complete discretion to determine the origination point of their programming.

43. In light of the above, we believe that the origination rule found in Section 73.1130 should be eliminated as we originally proposed.¹⁶ Although compliance with the rule's formula may have served as a factor in determining whether the studio in the community was in fact the station's main studio, we believe this function of the rule is not essential. Moreover, the requirements may have imposed significant costs. The greatest cost may have been the loss of certain responsive programming. The rule's formula may have prevented stations from originating some programming from outside the community which would have made them exceed the 49% cap on outside programming. In addition, the inflexibility of the origination rule gave rise to frequent requests for waivers of the rule, resulting in administrative costs.

44. *Applicability to Television and Radio.* The factors supporting our amendment of the main studio rules are equally applicable to all broadcast services. We do not believe there are any distinctions between the services which warrant different main studio rules for television and radio. The changes that have taken place in the marketplace, and in production and transmission technol-

ogy and methodology, affect the operations of every broadcast station. Irrespective of service, there is no basis for supporting an origination rule.

45. *Section 307 (b).* Our action is fully consistent with Section 307(b). We have granted a substantial degree of additional flexibility to licensees without altering any of their local service obligations or their ability to fulfill those obligations.

46. At the time the rules were adopted, an accessible main studio was deemed important to ensure that service obligations would be met, and an accessible studio was defined as a studio located within the political boundaries of the community of license. The location of the station's program production center -- its main studio -- in the community would promote the use of local talent and ideas. Residents would be able to readily contact the station and a station's presence in the community would assure meaningful interaction between the station and the community. Due to developments in technology, the marketplace and our regulations, the main studio may no longer be the station's production center, and accessibility considerations have changed. Accordingly, we believe that our underlying goals will not be affected by permitting stations to locate their studios outside their communities at points located within their principal community contours. We deleted the station program origination rule, upon finding that there is no longer a connection between its requirements and station's local service obligations. In addition, our action preserves the accessibility of the public inspection file and does not alter the ability of residents to communicate with station management and staff.

47. Moreover, our amended rules will continue to work in conjunction with the underlying obligation of licensees to provide programming that is responsive to their communities of license and the requirement that licensees place their principal community contours over their communities. We are confident, therefore, that our action is in accordance with Section 307(b).

MISCELLANEOUS MATTER

48. *Dual City Licensing.* The dual city licensing provision for radio stations was adopted to alleviate a potential burden of the program origination rule. Under the provision, now found in Section 73.1120, a station would be licensed to serve two or more communities if it could demonstrate that the support from one community, whether in the form of economic support or program assistance, would be insufficient to enable the station to comply with the rule. With dual city licensing, the station would include the programming originating from both or all of its communities in its computation to meet the requirements of the program origination rule.¹⁷ With the elimination of the rule, the dual city licensing provision can be removed.¹⁸

ADMINISTRATIVE MATTERS

49. The rules adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified information collection requirements on the public. Implementation of these new or modified requirements will be subject to approval by the Office of Management and Budget as prescribed by the Act.

50. The Secretary shall cause a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis which is set forth in Appendix C, to be sent to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with Section 604 of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. § 601 *et seq.* (1981)).

51. Accordingly, IT IS ORDERED THAT under the authority contained in Sections 1, 3, 4(i) and (j), 303, 307(b), 308 and 309 of the Communications Act of 1934, as amended, Parts 0 and 73 of the Commission's Rules and Regulations ARE AMENDED, effective July 16, 1987, as described above and as set forth in Appendix B.

52. IT IS FURTHER ORDERED, THAT FCC Forms 301 and 340 WILL BE AMENDED by separate Commission action, in accordance with the provisions of this *Report and Order*.

53. IT IS FURTHER ORDERED, THAT this proceeding IS TERMINATED.

54. For further information on this proceeding, contact Eileen E. Huggard, Mass Media Bureau, (202) 632-7792.

FEDERAL COMMUNICATIONS COMMISSION

William J. Tricarico
Secretary

APPENDIX A

List of Commenters

Comments

1. Amos Communications, Inc.
2. Arizona Justice Committee
3. Association of Independent Television Stations, Inc.
4. Benedek Broadcasting Corporation
5. Birach Broadcasting Corporation
6. Broadco of Texas, Incorporated
7. Brown Broadcasting Company/Utah
8. California Broadcasters Association
9. Capital Radio Corporation
10. Joint Comments of
Capitol Broadcasting Corporation,
Infinity Broadcasting Corporation,
L.M. Communications, Inc.,
Shamrock Broadcasting, Inc.,
Spanish International Communications Corporation,
Ralph C. Wilson Industries, Inc. and
WKLC, Inc.
11. CBS Inc.
12. Central Valley Communications, Inc.
13. Bert E. Chambers
14. Channel 53 Corporation
15. Joint Comments of
Jerry J. Collins,
Galen Gilbert,

- Calnevar Broadcasting, Inc.,
ASTI Broadcasting Corporation,
Ministerio Radial Cristo Viene Pronto, Inc.,
David Ortiz Radio Corporation,
Moran Broadcasting Company and
KBZ Broadcasting Company
16. Comco, Inc.
17. Joint Comments of
Cosmos Broadcasting Corporation,
Cox Enterprises, Inc.,
Global Broadcasting, Inc. and
Sterling Communications Corporation
18. Don R. Davis
19. Dubois County Broadcasting, Inc.
20. Family Stations, Inc.
21. Finley Broadcasting Company
22. Joint Comments of
Good Companion Broadcasting Co.,
New Life Evangelistic Center, Inc.
National Capital Christian Broadcasting, Inc.
23. Greater Media, Inc.
24. Intermart Broadcasting
25. Jag Communications, Inc.
26. James River Broadcasting Corporation
27. Robert A. Jones, P.E.
28. Joint Comments of
KDW Radio Associates and
Hoker Broadcasting, Inc.
29. KFMU Limited Partnership
30. Joint Comments of
KLOK Radio, Ltd. and
Voice of the Orange Empire, Inc., Ltd.
31. Joint Comments of
Board of Supervisors of
Louisiana State University,
South Carolina Educational Television Commission,
State of Wisconsin - Educational Communications
Board,
University of Maine System,
University of Oklahoma, WAMC,
West Central Illinois Educational Telecommunications
Corporation
and WSKG Public Telecommunications Council
32. Manna for Modern Man Ministries, Inc.
33. Robert E. Martinez, Jr.
34. Maryland-District of Columbia-Delaware
Broadcasters Association, Inc.
35. May & Dunne, Chartered
36. The National Association of Broadcasters
37. National Broadcasting Company, Inc.
38. National Telecommunications and Information Administration
39. Joint Comments of
New Jersey Public Broadcasting Authority,
Mississippi Authority for Educational Television,

Connecticut Educational Telecommunications Corporation and

The Public Broadcasting Foundation of Northwest Ohio
40. Dorsey Eugene Newman
41. Joint Comments of
The Ohio University,
The Miami University,
Northern Michigan University,
Washington State University and
the Ohio Educational Broadcasting Network
Commission

42. Joint Comments of
Pappas Telecasting Incorporated,
Pappas Telecasting of the Carolinas, Inc. and
Pappas Telecasting of the Midlands
43. Houston L. Pearce
44. Potomac Broadcasting, Inc.
45. Joint Comments of
Radio One Five Hundred, Inc. and
KBND, Inc.
46. Joint Comments of
Shamrock Communications, Inc. and
The Scranton Times
47. State College Communications Corp.
48. TeleOnce Corporation
49. United States Catholic Conference, Incorporated
50. Van Wagner Broadcasting, Inc.
51. Western Broadcasting Corporation of Puerto Rico
52. Westinghouse Broadcasting Company, Inc.
53. WFLI-TV
54. WMLB, Inc.
55. WMTY
56. WORX/WCJC Radio Stations
57. WPRV-TV, Inc.
58. WVEC Television, Inc.

Reply Comments

1. Arizona Justice Committee
2. Joint Reply Comments of
Capitol Broadcasting Corporation,
Infinity Broadcasting Corporation,
L.M. Communications, Inc.,
Shamrock Broadcasting, Inc.,
Spanish International Communications Corporation,
Ralph C. Wilson Industries, Inc. and WKLC, Inc.
3. May & Dunne, Chartered

APPENDIX B

Parts 0 and 73 of Title 47 of the Code of Federal Regulations are amended as follows:

1. The authority citations for Parts 0 and 73 continue to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. Section 0.455 is amended by revising paragraph (b)(1) to read as follows:

Section 0.455 Other locations at which records may be inspected.

* * * * *

(b) Mass Media Bureau. (1) Applications for broadcast authorizations and related files are available for public inspection in the Mass Media and Dockets Reference Room. See § 0.453(a)(2). Certain broadcast applications, reports and records are also available for inspection in the community in which the station is located or is proposed to be located. See §§ 73.3526 and 73.3527.

* * * * *

3. Section 73.1120, Station location, is amended by removing paragraphs (b) and (c).

4. Section 73.1125 is amended by revising paragraphs (a) and (b), redesignating paragraph (c) as paragraph (d) and adding new paragraph (c) to read as follows:

Section 73.1125 Station main studio location.

(a) Each AM, FM and TV broadcast station shall maintain a main studio within the station's principal community contour as defined in Sections 73.24(j) (5 mV/m daytime contour), 73.315(a) and 73.685(a), respectively, of this chapter, except

(1) AM stations licensed as synchronous amplifier transmitters ("AM boosters") or,

(2) An FM station whose main studio is located at the collocated main studio-transmitter site of a commonly-owned AM station licensed to the same principal community or,

(3) Any AM, FM or TV broadcast station whose main studio is located in the community to which the station is licensed to serve at a point situated outside the principal community contour or,

(4) AM, FM or TV stations, when good cause exists for locating the main studio outside the station's principal community contour and that to do so would be consistent with the operation of the station in the public interest.

(b) Relocation of the main studio may be made:

(1) From one point to another within the principal community contour or from a point outside the principal community contour to one within it, without specific FCC authority, but notification to the FCC in Washington shall be made promptly; however,

(2) From a point within the principal community contour to one outside it or from one such point outside the community contour to another, only by

first securing modification of construction permit or license (FCC Forms 301 for commercial stations and 340 for noncommercial educational stations.)

(3) Exceptions to paragraph (b)(2) of this section are:

(i) Relocation of the main studio of an FM station to the collocated main studio-transmitter site of a commonly-owned AM station licensed to the same principal community; and,

(ii) Relocation of the main studio from one point to another within the principal community of license or from a point outside the principal community to one within it.

(iii) Notification to the FCC in Washington shall be made promptly of such relocations described in paragraphs (b)(3)(i) and (ii) of this section.

(c) Each AM, FM and TV broadcast station shall maintain a local telephone number in its community of license or a toll-free number.

(d) Where the principal community to be served does not have specifically defined political boundaries, applications will be considered on a case-by-case basis by the FCC to determine if the main studio is located within the principal community to be served.

5. Section 73.1130, Station program origination, is removed.

6. Section 73.1690 is amended by revising paragraphs (b)(3) and (d)(1) to read as follows:

Section 73. 1690 Modification of transmission systems.

(b) ***

(3) Change in location of the main studio to a location outside the station's principal community contour, except as provided for in § 73.1125.

(d) ***

(1) Change in studio location within the principal community contour. See § 73.1125.

7. Section 73.3526 is amended by revising paragraph (d) to read as follows:

Section 73. 3526 Local public inspection file of commercial stations.

(d) *Location of records.* The file shall be maintained at the main studio of the station, where such studio is located in the community to which the station is licensed, or any accessible place (such as a public registry for documents or an attorney's office) in the community to which the station is or is proposed to be licensed, and shall be available for public inspection at any time during regular business hours.

8. Section 73.3527 is amended by revising paragraph (d) to read as follows:

Section 73. 3527 Local public inspection file of noncommercial educational stations.

(d) *Location of records.* The file shall be maintained at the main studio of the station, where such studio is located in the community to which the station is licensed, or at any accessible place (such as a public registry for documents or an attorney's office) in the community to which the station is or is proposed to be licensed, and shall be available for public inspection at any time during regular business hours.

9. Section 73.3538 is amended by revising paragraphs (a)(5), (a)(6) and (a)(7) to read as follows:

Section 73. 3538 Application to make changes in an existing station.

(a) ***

(5) To move the main studio location of an AM station to location outside the principal community contour or to move the studio from one location outside the principal community contour to another such location (other than to a point within the principal community). See § 73.1125.

(6) To move the main studio of an FM station to a location outside the principal community contour or to move the studio from one location outside the principal community contour to another such location (other than to the collocated studio-transmitter site of a commonly-owned AM station licensed to the same community or to a point within the principal community). See § 73.1125.

(7) To move the main studio of a TV station to a location outside the principal community contour or to move the studio from one location outside the principal community contour to another such location (other than to a point within the principal community). See § 73.1125.

10. Section 73.3580 is amended by revising paragraph (f)(9) to read as follows:

Section 73. 3580 Local public notice of filing of broadcast applications.

(f) * * *

(9) A statement that a copy of the application, amendment(s), and related material are on file for public inspection at a stated address in the community in which the station is located or is proposed to be located. *See* §§ 73.3526 and 73.3527.

11. Section 73.3594 is amended by revising paragraph (d)(5) to read as follows:

Section 73. 3594 Local public notice of designation for hearing.

(d) * * *

(5) A statement that a copy of the application, amendment(s), and related material are on file for public inspection at a stated address in the community in which the station is located or is proposed to be located. *See* §§ 73.3526 and 73.3527.

APPENDIX C

FINAL REGULATORY FLEXIBILITY ANALYSIS

I. Need for and purpose of this action.

The Commission has concluded that the requirement imposed on broadcasters to maintain their main studios in their communities of license is unduly restrictive in light of current station operations and regulatory policies. The Commission also has determined that the station origination rule no longer serves its stated objective and exacts substantial, unnecessary costs. Amendment of the rules to permit stations to locate their main studios at any point within their principal community contours and to originate programming from any location will grant broadcasters additional flexibility in constructing and operating stations and may reduce their expenses without altering current service obligations or affecting a licensee's ability to meet those obligations.

II. Summary of issues raised by public comments in response to the initial regulatory flexibility analysis, Commission assessment, and changes made as a result.

We received no public comments which specifically addressed the initial regulatory flexibility analysis.

III. Significant alternatives considered and rejected.

The Commission carefully considered and weighed all the alternatives presented in the *Notice* and all comments filed in this proceeding and has determined that the alternatives selected herein will provide relief to broadcasters consistent with Commission objectives.

FOOTNOTES

¹The station main studio location rule is found in Section 73.1125, and the station program origination rule, in Section 73.1130.

² Section 303(d) of the Communications Act of 1934, as amended, authorizes the FCC to determine the location of individual stations.

³ *See ReRegulations and Rules Oversight of the AM, FM, and TV Broadcast Rules*, 44 Fed. Reg. 69933 (December 5, 1979). The Commission also eliminated the requirement that AM and FM broadcast stations affiliated with networks originate two-thirds of their non-network programs or a majority of all programs, whichever was smaller, from the main studio. All stations have been required by Section 73.1130 to originate more than 50% of their non-network programs from their main studio or other points in the community.

⁴ *See, e.g., Gulf Television Co.*, 20 FCC 734 (1956) (prime factor in defining main studio is percentage of programming originating from studio). *Cf. Cowles Florida Broadcasting, Inc.*, 60 FCC 2d 372 (1976) (other factors used in the absence of evidence on program origination percentages to support determination that main studio had ceased to operate as such).

⁵ The members of the AJC were identified as: Beasley Broadcast Group, Capitol Broadcasting Corporation, Communication Enterprises Inc., Dick Broadcasting Co., Inc., Fuller-Jeffrey Group, Hicks Communications, Inc., Joyner Broadcasting Co., Keymarket Communications Group, Metroplex Communications, Sconnix Broadcasting Company, Swanson Broadcasting, Twin Cities Broadcasting, Westcom, Ltd. and WHAL-WYQC Radio Stations.

⁶ 1 FCC Rcd 536 (1986).

⁷ The Commission expanded the inquiry to include television broadcast stations.

⁸ A list of the parties filing comments, formal and informal, and replies is provided in Appendix A. We will treat the comments of May & Dunne, Chartered, which were received one day after the filing date, as informal comments. The United States Catholic Conference filed a supplement to its comments on April 15, 1987. As the period for filing reply comments in this proceeding closed on January 6, 1987, and the draft order was placed on the Sunshine Agenda on April 9, 1987, the supplement has not been included in the record.

⁹ *Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations*, 98 FCC 2d 1076, 1085 n.28 (1984), *recon. denied*, 104 FCC 2d 357 (1986), *appeal pending sub nom. Action for Children's Television v. FCC*, No. 86-1425 (D.C. Cir., filed July 25, 1986).

¹⁰ The principal community contours for AM, FM and television broadcast stations are found in Sections 73.24(j), 73.315(a) and 73.685(a), respectively. For the purpose of this rule, the daytime contour requirement (5 mV/m) of Section 73.24(j) will be applicable to AM stations, and the contour found in Section 73.315(a) will be applicable to noncommercial educational FM stations. Our main studio requirements have applied, and will continue to apply, absent waiver, to noncommercial educational stations.

¹¹ We shall continue to maintain several exceptions to this rule and retain the "good cause" waiver standard in the rule. Noting Group W's concern that a city grade location standard could be more restrictive than the current rule in certain circumstances, we are adding an exception to the new location requirement for stations whose main studios are located in the principal community of license to address the situation where a station's principal community contour does not cover the entire community of license. We are also deleting the exception specified in Section 73.1125(a)(2) for an AM station whose main studio is located at the station transmitter as the new rule now permits such collocation in all cases. In addition, the exception in the same section for an FM station whose main studio is located at the main studio-transmitter site of a commonly-owned AM station licensed to the same community is retained. Section 73.1690, Modification of transmission systems, and Section 73.3538, Application to make changes in an existing station, are modified to conform to the new requirements.

¹² We do not believe that our amended rule must be qualified by a requirement that a station licensed to a community in Puerto Rico or the U.S. Virgin Islands shall maintain its main studio on the island of its community of license.

¹³ We are amending Sections 73.3526 and 73.3527 concerning the local public inspection file to state that the file may be maintained at the main studio if it is located within the community, or at any accessible place within the community. Section 0.455, concerning the location at which records may be inspected, and Sections 73.3580(f) and 73.3594(d), concerning the information to be contained in local public notices of the filing of broadcast applications and of designations for hearings, respectively, will be conformed accordingly.

¹⁴ See *Deregulation of Radio*, 84 FCC 2d 968 (1981), *recon. denied in part*, 87 FCC 2d 797 (1981), *aff'd in relevant part*, *Office of Communication of the United Church of Christ v. FCC*, 707 F.2d 1413 (D.C. Cir. 1983); *Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations*, 98 FCC 2d 1076 (1984), *recon. denied*, 104 FCC 2d 357 (1986), *appeal pending sub nom. Action for Children's Television v. FCC*, No. 86-1425 (D.C. Cir., filed July 25, 1986).

¹⁵ Amendment of Section 73.242, 103 FCC 2d 922 (1986).

¹⁶ As we are eliminating the rule, we do not need to address the meaning of the term "originate."

¹⁷ Dual-city licensing is to be distinguished from multi-city identification. A station is permitted to include additional communities in its official identification by meeting the requirements of Section 73.1201. Although a station may identify itself with two or more communities, its community of license remains its only station location. In contrast, under dual-city licensing, the station would be deemed located in each community, with the attendant programming and main studio obligations.

¹⁸ Our action here is not intended to affect the present obligations of stations that are licensed to two or more communities under Section 73.1120.